No. 79-1515

In the Supreme Court of the United States

OCTOBER TERM, 1979

UNITED STATES OF AMERICA, PETITIONER

v.

ELWOOD SWANK AND RITA SWANK

UNITED STATES OF AMERICA, PETITIONER

v.

BLACK HAWK COAL CORPORATION, INC.

UNITED STATES OF AMERICA, PETITIONER

v.

BULL RUN MINING CO., INC.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

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On page 9 of the petition, we stated that we were advised by the Internal Revenue Service that "there are currently 15 cases pending administratively either on audit or at the appellate level, or in the district courts, with approximately $2,176,383 of revenue at stake."

Upon further investigation of these administrative statistics, we are now advised by the Internal Revenue Service that there are currently 12 cases pending administratively either on audit or at the appellate level, or in the Court of Claims or the Tax Court, with approximately $1,048,888 of revenue at stake.

The names of the six docketed cases involving the question presented and the amounts at issue are as follows:

Wylie Bros. v. *United States* (Ct. Cl. - No. 109-78)	$ 57,032.00
L. W. Hardy Co. v. *United States* (Ct. Cl. - No. 412-77)	720,000.00
Thomas H. Powell v. *Commissioner* (T.C. - No. 1110-80)	36,000.00
Rodney D. Feddle v. *Commissioner* (T.C. - No. 17128-79S)	826.00
Gale Coal Co. v. *Commissioner* (T.C. - No. 12191-79)	51,210.00
Vel Marv Petroleum v. *Commissioner* (T.C. - No. 11493-78)	24,000.00
	$889,068.00

There are also six cases pending administratively within the Internal Revenue Service involving a total of $159,920.00. In one of these cases, the taxpayer has

recently paid the amount of the deficiency but the statute of limitations within which a claim for refund may be filed has not yet expired.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

APRIL 1980

DOJ-1980-04